IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 30563 of 2007(L)

PETITIONER:

M.A.MOHAMMED ASHRAF, AGED 52 YEARS,
S/O. LATE MR. P.M.ABDUL KAREEM, PROPRIETOR,
M/S. PULICKEEL TEXTORIUM, PRIVATE BUS STAND ROAD,
ERATTUPETTA-686 121, KOTTAYAM DISTRICT.
(RESIDING AT PULICKEEL HOUSE, P.O.NADACKAL,
ERATTUPETTA-686 124, KOTTAYAM DISTRICT.)

BY ADV. SRI.TPM.IBRAHIM KHAN

RESPONDENTS:

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1. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDHYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM.

2. THE EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL DIVISION, PALA.

3. THE ASSISTANT EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL MAJOR SECTION, ERATTUPETTA.

4. THE DEPUTY CHIEF ENGINEER,
ANTI POWER THEFT SQUAD, THIRUVANANTHAPURAM.

BY SRI.P.P.THAJUDEEN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

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W.P.(C) No.30563 of 2007

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Dated this the 16th day of October, 2007

JUDGMENT

Having heard the learned counsel for the petitioner and standing counsel for the respondents I do not intend to retain Ext.P11 even for a moment.

2. Following Ext.P1 judgment the Assistant Executive Engineer was directed to take decision on the objections of the petitioner. It was sufficient that he took a decision instead the Executive Engineer conducted the hearing. But instead of that authority issuing a decision he directed the Assistant Executive Engineer to take a decision on why Ext.P11 is given. May be that the officers were confused, in the sense that the direction was to the Assistant Executive Engineer to consider the matter and therefore there would have thought during fit orders were issued through him but the direction had to the Assistant Executive Engineer and consider and it is that this means it is the Assistant Executive Engineer who is the .... issues a decision if the matter was considered by Executive Engineer which was required on

that authority issues a decision.

3. Under the afforesaid circumstances the impugned Ext.P11 is set aside and the Executive Engineer in appeal is directed to conduct a re-hearing and issue a decision after considering the objections of the petitioner. It is not necessary to relegate to the issuance of the order to the Assistant Executive Engineer. It is also clarified that the directions in Ext.P1 would not stand in the way of as aforesaid direction is made final decision within an outer limit of two months from now. The petitioner is directed to appear before the Executive Engineer with a copy of this judgment on 30th of October 2007. I further order that there shall be no disconnection on the basis of this impugned demand and also issue would stand relegate by the decision to be referred by the Executive Engineer.

THOTTATHIL B.RADHAKRISHNAN,
JUDGE

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